

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

NANOENTEK, INC. and DIGITAL-BIO  
TECHNOLOGY CO., LTD.,

Plaintiffs,

v.

BIO-RAD LABORATORIES, INC,

Defendant.

Case No. 2:11-cv-00427-RBS-TEM

**DECLARATION OF PETER J. CUOMO IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION TO TRANSFER VENUE**

I, Peter J. Cuomo, declare as follows:

1. I am an attorney in the Boston, Massachusetts office of Edwards Wildman Palmer LLP, which represents Plaintiffs NanoEnTek, Inc. and Digital-Bio Technology Co., Ltd. (collectively, "Digital-Bio") in this lawsuit. I have personal knowledge of the matters set forth herein and, if called upon as a witness, would and could competently testify thereto.

2. The document attached as Exhibit A is a true and accurate copy of the 2010 Annual Report of Defendant Bio-Rad Laboratories, Inc. ("Bio-Rad"), located at <http://www.bio-rad.com/webroot/web/pdf/corporate/literature/Bio-Rad2010AnnualReport.pdf> and downloaded by me on November 7, 2011.

3. The document attached as Exhibit B is Federal Court Statistics 2010, Table C-5, available at <http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/Statistics/FederalJudicialCaseloadStatistics/2010/tables/C05Mar10.pdf> and downloaded by me on November 7, 2011.

4. The document attached as Exhibit C is Bio-Rad's Form 10K for the year ending December 31, 2010, available at [http://www.bio-rad.com/webroot/web/pdf/corporate/literature/10K\\_12-31-2010.pdf](http://www.bio-rad.com/webroot/web/pdf/corporate/literature/10K_12-31-2010.pdf), and downloaded by me on November 7, 2011.

5. The document attached as Exhibit D is information regarding sales of Countess<sup>®</sup> products in the Commonwealth of Virginia provided by Digital-Bio's distributor Life Technologies ("Life") pursuant to subpoena (which is also attached along with Life's objections).

6. The document attached as Exhibit E is a search report for "Bio-Rad" from the State Corporation Commission's website for the Commonwealth of Virginia, located at <https://sccefile.scc.virginia.gov/BusinessEntity/BusinessEntitySearch.aspx>, and downloaded by me on October 26, 2011.

7. The document attached as Exhibit F is a true and accurate copy of a report showing contracts awarding Bio-Rad money under the American Recovery and Reinvestment Act for projects benefitting the Commonwealth of Virginia. The document was downloaded from <http://stimulus.doa.virginia.gov> by me on October 26, 2011.

8. The documents attached as Exhibit G are true and accurate copies of individual project reports showing contracts awarding Bio-Rad money under the American Recovery and Reinvestment Act for projects benefitting the Commonwealth of Virginia. The documents were downloaded from <http://stimulus.doa.virginia.gov> by me on November 5, 2011.

9. The document attached as Exhibit H is a true and accurate copy of a contract between Bio-Rad and Virginia Commonwealth University posted at [http://www.vcu.edu/procurement/contracts/3000382JC-04\\_CSS.pdf](http://www.vcu.edu/procurement/contracts/3000382JC-04_CSS.pdf), and downloaded by me on October 26, 2011.

10. The document attached as Exhibit I is a true and accurate copy of BioRadiations

Magazine, Number 121 reporting research results from a team at George Mason University at pages 22-25. The document was posted at <http://www.biorad.com/webroot/web/pdf/lsr/literaturebr121.pdf>, and downloaded by me on October 26, 2011.

11. The documents attached as Exhibit J are true and accurate copies of Bio-Rad promotional materials and featuring Kristi DeCourcy, PhD of Virginia Polytechnic Institute. The documents were downloaded from <http://www.biorad.com> by me on October 28, 2011.

12. The document attached as Exhibit K is a true and accurate copy of a Bio-Rad teaching module developed in-part by Kristi DeCourcy, PhD of Virginia Polytechnic Institute as reflected on page 2. The document was downloaded from <http://www.biorad.com> by me on October 26, 2011.

13. The document attached as Exhibit L is a true and accurate copy of PricewaterhouseCoopers LLP 2011 Patent Litigation study downloaded from <http://www.pwc.com/us/en/forensic-services/publications/2011-patent-litigation-study.jhtml> by me on October 19, 2011.

14. Digital-Bio has retained a technical expert in Virginia who may testify depending on the issues and defenses raised by Bio-Rad.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 7th day of November, 2011 at Boston, Massachusetts.

  
Peter J. Cuomo